

By: Zerwas

H.B. No. 4696

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 240; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8347 to read as follows:

CHAPTER 8347. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 240

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8347.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Fort Bend County Municipal Utility District No. 240.

Sec. 8347.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8347.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 8347.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8347.0103 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 8347.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of:

10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas Constitution; and

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 8347.0106. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting this chapter form a closure. A mistake made in the
21 field notes or in copying the field notes in the legislative process
22 does not affect the district's:

23 (1) organization, existence, or validity;

24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 8347.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8347.0202, directors
6 serve staggered four-year terms.

7 Sec. 8347.0202. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

14 (b) Temporary directors serve until the earlier of:

15 (1) the date permanent directors are elected under
16 Section 8347.0103; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 8347.0103 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 8347.0103; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

1 (d) If Subsection (c) applies, the owner or owners of a
2 majority of the assessed value of the real property in the district
3 may submit a petition to the commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 8347.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8347.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 8347.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 8347.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
24 road project must meet all applicable construction standards,
25 zoning and subdivision requirements, and regulations of each
26 municipality in whose corporate limits or extraterritorial
27 jurisdiction the road project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards,
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 8347.0305. COMPLIANCE WITH MUNICIPAL CONSENT
10 ORDINANCE OR RESOLUTION. The district shall comply with all
11 applicable requirements of any ordinance or resolution that is
12 adopted under Section 54.016 or 54.0165, Water Code, and that
13 consents to the creation of the district or to the inclusion of land
14 in the district.

15 Sec. 8347.0306. DIVISION OF DISTRICT. (a) The district may
16 be divided into two or more new districts only if the district:

- 17 (1) has never issued any bonds; and
18 (2) is not imposing ad valorem taxes.

19 (b) This chapter applies to any new district created by the
20 division of the district, and a new district has all the powers and
21 duties of the district.

22 (c) A new district created by the division of the district
23 may not, at the time the new district is created, contain any land
24 outside the area described by Section 2 of the Act enacting this
25 chapter.

26 (d) The board, on its own motion or on receipt of a petition
27 signed by the owner or owners of a majority of the assessed value of

1 the real property in the district, may adopt an order dividing the
2 district.

3 (e) The board may adopt an order dividing the district
4 before or after the date the board holds an election under Section
5 8347.0103 to confirm the creation of the district.

6 (f) An order dividing the district shall:

7 (1) name each new district;

8 (2) include the metes and bounds description of the
9 territory of each new district;

10 (3) appoint temporary directors for each new district;

11 and

12 (4) provide for the division of assets and liabilities
13 between the new districts.

14 (g) On or before the 30th day after the date of adoption of
15 an order dividing the district, the district shall file the order
16 with the commission and record the order in the real property
17 records of each county in which the district is located.

18 (h) A new district created by the division of the district
19 shall hold a confirmation and directors' election as required by
20 Section 8347.0103.

21 (i) If the creation of the new district is confirmed, the
22 new district shall provide the election date and results to the
23 commission.

24 (j) Any new district created by the division of the district
25 must hold an election as required by this chapter to obtain voter
26 approval before the district may impose a maintenance tax or issue
27 bonds payable wholly or partly from ad valorem taxes.

1 (k) Municipal consent to the creation of the district and to
2 the inclusion of land in the district granted under Section
3 8347.0104 acts as municipal consent to the creation of any new
4 district created by the division of the district and to the
5 inclusion of land in the new district.

6 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

7 Sec. 8347.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
8 The district may issue, without an election, bonds and other
9 obligations secured by:

10 (1) revenue other than ad valorem taxes; or

11 (2) contract payments described by Section 8347.0403.

12 (b) The district must hold an election in the manner
13 provided by Chapters 49 and 54, Water Code, to obtain voter approval
14 before the district may impose an ad valorem tax or issue bonds
15 payable from ad valorem taxes.

16 (c) The district may not issue bonds payable from ad valorem
17 taxes to finance a road project unless the issuance is approved by a
18 vote of a two-thirds majority of the district voters voting at an
19 election held for that purpose.

20 Sec. 8347.0402. OPERATION AND MAINTENANCE TAX. (a) If
21 authorized at an election held under Section 8347.0401, the
22 district may impose an operation and maintenance tax on taxable
23 property in the district in accordance with Section 49.107, Water
24 Code.

25 (b) The board shall determine the tax rate. The rate may not
26 exceed the rate approved at the election.

27 Sec. 8347.0403. CONTRACT TAXES. (a) In accordance with

1 Section 49.108, Water Code, the district may impose a tax other than
2 an operation and maintenance tax and use the revenue derived from
3 the tax to make payments under a contract after the provisions of
4 the contract have been approved by a majority of the district voters
5 voting at an election held for that purpose.

6 (b) A contract approved by the district voters may contain a
7 provision stating that the contract may be modified or amended by
8 the board without further voter approval.

9 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

10 Sec. 8347.0501. AUTHORITY TO ISSUE BONDS AND OTHER
11 OBLIGATIONS. The district may issue bonds or other obligations
12 payable wholly or partly from ad valorem taxes, impact fees,
13 revenue, contract payments, grants, or other district money, or any
14 combination of those sources, to pay for any authorized district
15 purpose.

16 Sec. 8347.0502. TAXES FOR BONDS. At the time the district
17 issues bonds payable wholly or partly from ad valorem taxes, the
18 board shall provide for the annual imposition of a continuing
19 direct ad valorem tax, without limit as to rate or amount, while all
20 or part of the bonds are outstanding as required and in the manner
21 provided by Sections 54.601 and 54.602, Water Code.

22 Sec. 8347.0503. BONDS FOR ROAD PROJECTS. At the time of
23 issuance, the total principal amount of bonds or other obligations
24 issued or incurred to finance road projects and payable from ad
25 valorem taxes may not exceed one-fourth of the assessed value of the
26 real property in the district.

27 SECTION 2. The Fort Bend County Municipal Utility District

1 No. 240 initially includes all the territory contained in the
2 following area:

3 TRACT 1 - 203.50 ACRES

4 Being a 203.50 acre tract of land out of the Randolph Foster
5 League, Abstract 28, and the Thomas Westfall League, Abstract 92
6 and the Noel F. Roberts League, Abstract 79 Fort Bend County, Texas;
7 said 203.50 acre tract of land being more particularly described by
8 metes and bounds as follows:

9 COMMENCING at the Northwest corner of Thomas Westfall League,
10 Abstract 92; THENCE North 89° 53' 37" East with the common line of
11 said Foster League and said Westfall League, 1645.89 feet to a point
12 in the East right-of-way line of F.M. 1489 for the POINT OF
13 BEGINNING of the herein tract of land;

14 THENCE with said East right-of-way line, along the arc of a
15 curve to the right, having a radius of 2166.91 feet, a central angle
16 of 01° 46' 20", an arc length of 67.02 feet, and a chord bearing
17 North 04° 34' 23" East, 67.02 feet to a point for corner;

18 THENCE South 88° 56' 17" East, 4353.01 feet to a point for
19 corner in the centerline of Big Bayou (Bessie's Creek);

20 THENCE with the meanders of said centerline as follows:

- 21 - South 46° 57' 47" East, 639.50 feet to a point for corner;
- 22 - South 49° 22' 47" East, 386.90 feet to a point for corner;
- 23 - South 68° 19' 37" East, 544.00 feet to a point for corner;
- 24 - South 23° 42' 07" East, 440.41 feet to a point for corner;
- 25 - South 22° 08' 03" West, 221.91 feet to a point for corner;
- 26 - South 53° 41' 23" West, 287.12 feet to a point for corner;
- 27 - North 86° 22' 00" West, 2.51 feet to a point for corner;

1 THENCE South 00° 43' 33" West, 136.84 feet to a point for
2 corner in the West right-of-way line of Vernon Frost Road;

3 THENCE with said West right-of-way line as follows:

- 4 - South 13° 55' 15" West, 116.39 feet to a point for corner;
5 - South 00° 01' 45" East, 883.80 feet to a point for corner;
6 - South 52° 29' 11" West, 41.12 feet to a point for corner in
7 the North right-of-way line of said Vernon Frost Road;

8 THENCE with said North right-of-way line as follows:

- 9 - North 83° 31' 42" West, 2367.99 feet to a point for corner;
10 - South 64° 33' 59" West, 248.96 feet to a point for corner;

11 THENCE North 04° 02' 15" West, 982.17 feet to a point for
12 corner;

13 THENCE North 05° 25' 55" East, 275.65 feet to a point for
14 corner in the aforementioned centerline of Big Bayou;

15 THENCE with the meanders of said centerline as follows:

- 16 - South 73° 53' 23" West, 212.50 feet to a point for corner;
17 - South 56° 15' 13" West, 133.89 feet to a point for corner;

18 THENCE North 01° 05' 23" East, 948.59 feet to a point for
19 corner;

20 THENCE North 88° 57' 42" West, 2,489.02 feet to a point for
21 corner in the aforementioned east right-of-way line of F.M. 1489;

22 THENCE with said East right-of-way as follows:

23 - North 03° 01' 27" West, 312.88 feet to a point for corner
24 and the beginning of a curve to the right;

- 25 - Along the arc of said curve to the right, having a radius
26 of 2166.91 feet, a central angle of 06° 42' 40", an arc length of
27 253.82 feet, and a chord bearing North 00° 19' 53" East, 253.67 feet

1 to the POINT OF BEGINNING; containing 203.50 acres of land, more or
2 less.

3 TRACT 2 - 47.74 ACRES

4 Being a 47.74 acre tract of land out of the Thomas Westfall
5 League, Abstract 92 Fort Bend County, Texas; said 47.74 acre tract
6 of land being more particularly described by metes and bounds as
7 follows:

8 COMMENCING at a point in the East line of said Thomas Westfall
9 League, Abstract 92 and being in the South right-of-way line of
10 Vernon Frost Road; THENCE North 83° 31' 43" West with said South
11 right-of-way line, 979.03 feet to a point in the West line of a
12 Roadway for Ingress and Egress and Utilities and for the POINT OF
13 BEGINNING of the herein tract of land;

14 THENCE South 20° 02' 44" West with said West line, 1452.74
15 feet to a point for corner;

16 THENCE North 83° 42' 22" West, 930.30 feet to a point for
17 corner;

18 THENCE South 22° 36' 17" West, 8.24 feet to a point for corner;

19 THENCE South 71° 32' 11" West, 1961.02 to a point for corner in
20 the East right-of-way line of F.M. 1489;

21 THENCE North 33° 39' 18" West with said East right-of-way
22 line, 694.24 feet to a point for corner;

23 THENCE North 64° 33' 59" East, 1369.17 feet to a point for
24 corner;

25 THENCE South 83° 31' 43" East, 1324.09 feet to a point for
26 corner;

27 THENCE North 06° 28' 17" East, 883.00 feet to a point for

1 corner in the South right-of-way line of the aforementioned Vernon
2 Frost Road;

3 THENCE South 83° 31' 43" East with said South right-of-way
4 line, 23.23 to the POINT OF BEGINNING; containing 47.74 acres of
5 land, more or less.

6 TRACT 3 - 10.95 ACRES

7 Being a 10.95 acre tract of land out of the Thomas Westfall
8 League, Abstract 92 Fort Bend County, Texas; said 10.95 acre tract
9 of land being more particularly described by metes and bounds as
10 follows:

11 COMMENCING at a point in the East line of said Thomas Westfall
12 League, Abstract 92 and being in the South right-of-way line of
13 Vernon Frost Road; THENCE North 83° 31' 43" East with said South
14 right-of-way line, 30.19 feet to the POINT OF BEGINNING of the
15 herein tract of land;

16 THENCE South 00° 05' 00" West, 593.27 feet to a point for
17 corner;

18 THENCE North 83° 31' 42" West, 694.99 feet to a point for
19 corner in the East line of a Roadway for Ingress and Egress and
20 Utilities;

21 THENCE North 20° 02' 44" West with said East line, 658.90 feet
22 to a point for corner in the South right-of-way line of the
23 aforementioned Vernon Frost Road;

24 THENCE South 83° 31' 43" East with said South right-of-way
25 line, 923.16 to the POINT OF BEGINNING; containing 10.95 acres of
26 land, more or less.

27 TRACT 4 - 84.60 ACRES

1 Being a 95.93 acre tract of land out of the Randolph Foster
2 League, Abstract 28, and the Thomas Westfall League, Abstract 92
3 Fort Bend County, Texas; said 95.93 acre tract of land being more
4 particularly described by metes and bounds as follows:

5 COMMENCING at the Northwest corner of Thomas Westfall League,
6 Abstract 92; THENCE North 89° 53' 37" East with the common line of
7 said Foster League and said Westfall League, 1645.89 feet to a point
8 in the East right-of-way line of F.M. 1489;

9 THENCE with said East right-of-way line, along the arc of a
10 curve to the right, having a radius of 2166.91 feet, a central angle
11 of 01° 46' 20", an arc length of 67.02 feet, and a chord bearing
12 North 04° 34' 23" East, 67.02 feet to the POINT OF BEGINNING of the
13 herein tract of land;

14 THENCE with said East right-of-way line, along the arc of a
15 curve to the right, having a radius of 2166.91 feet, a central angle
16 of 05° 49' 38", an arc length of 220.39 feet, and a chord bearing
17 North 08° 22' 23" East, 220.29 feet to a point for corner;

18 THENCE North 10° 25' 33" East, 567.79 feet to a point for
19 corner;

20 THENCE North 42° 48' 13" East, 161.59 feet to a point for
21 corner;

22 THENCE North 89° 49' 13" East, 776.80 feet to a point for
23 corner;

24 THENCE North 89° 50' 13" East, 1300.00 feet to a point for
25 corner;

26 THENCE North 89° 47' 53" East, 1493.99 feet to a point for
27 corner;

1 THENCE South 05° 13' 23" West, 121.36 feet to a point for
2 corner in the centerline of Big Bayou (Bessie's Creek);

3 THENCE with the meanders of said centerline as follows:

- 4 - South 20° 06' 37" East, 255.79 feet to a point for corner;
- 5 - South 33° 09' 07" East, 391.61 feet to a point for corner;
- 6 - South 39° 30' 39" East, 386.36 feet to a point for corner;
- 7 - South 46° 57' 47" East, 639.50 feet to a point for corner;
- 8 - South 49° 22' 47" East, 386.90 feet to a point for corner;

9 THENCE South 40° 37' 13" West, 400.00 feet to a point for
10 corner;

11 THENCE North 49° 22' 47" West, 395.34 feet to a point for
12 corner;

13 THENCE North 46° 57' 47" West, 700.28 feet to a point for
14 corner;

15 THENCE North 39° 00' 27" West, 342.84 feet to a point for
16 corner;

17 THENCE North 88° 56' 17" West, 3825.88 feet to the POINT OF
18 BEGINNING; containing 95.93 acres of land more or less;

19 SAVE AND EXCEPT an 11.33 acre tract of land being more
20 particularly described by metes and bounds as follows:

21 COMMENCING at a point in the East right-of-way for the
22 Southwest corner of said 95.93 acre tract of land; Thence South 88°
23 56' 17 East, 3825.88 feet to the PLACE OF BEGINNING;

24 THENCE South 88° 56' 17" East, 527.13 feet to a point for
25 corner in the centerline of Big Bayou (Bessie's Creek);

26 THENCE with the meanders of said centerline as follows:

- 27 - South 46° 57' 47" East, 639.50 feet to a point for corner;

1 - South 49° 22' 47" East, 386.90 feet to a point for corner;
2 THENCE South 40° 37' 13" West, 400.00 feet to a point for
3 corner;
4 THENCE North 49° 22' 47" West, 395.34 feet to a point for
5 corner;
6 THENCE North 46° 57' 47" West, 700.28 feet to a point for
7 corner;
8 THENCE North 39° 00' 27" West, 342.84 to the POINT OF
9 BEGINNING; containing 11.33 acres of land more or less.

10 SECTION 3. (a) The legal notice of the intention to
11 introduce this Act, setting forth the general substance of this
12 Act, has been published as provided by law, and the notice and a
13 copy of this Act have been furnished to all persons, agencies,
14 officials, or entities to which they are required to be furnished
15 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
16 Government Code.

17 (b) The governor, one of the required recipients, has
18 submitted the notice and Act to the Texas Commission on
19 Environmental Quality.

20 (c) The Texas Commission on Environmental Quality has filed
21 its recommendations relating to this Act with the governor, the
22 lieutenant governor, and the speaker of the house of
23 representatives within the required time.

24 (d) All requirements of the constitution and laws of this
25 state and the rules and procedures of the legislature with respect
26 to the notice, introduction, and passage of this Act are fulfilled
27 and accomplished.

1 SECTION 4. (a) If this Act does not receive a two-thirds
2 vote of all the members elected to each house, Subchapter C, Chapter
3 8347, Special District Local Laws Code, as added by Section 1 of
4 this Act, is amended by adding Section 8347.0307 to read as follows:

5 Sec. 8347.0307. NO EMINENT DOMAIN POWER. The district may
6 not exercise the power of eminent domain.

7 (b) This section is not intended to be an expression of a
8 legislative interpretation of the requirements of Section 17(c),
9 Article I, Texas Constitution.

10 SECTION 5. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2019.